

INDIRECT CHARGES

This clause is applicable to all entities (non-profit, for-profit organizations, and State and local organizations, etc.) receiving Federal **cost reimbursable** grants or contracts.

Indirect cost charges should be based on allowable, allocable, and reasonable costs based on the applicable cost principles¹. It is important to highlight the submission requirements of indirect cost proposals. As an example, OMB Circular A-122, Attachment A, Section E. 2. Negotiation and Approval of Indirect Rates, states:

- *A non-profit organization which has not previously established an indirect cost rate with a Federal agency **shall** submit its initial indirect cost proposal immediately after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award.*
- *Organizations that have previously established indirect cost rates **must** submit a new indirect cost proposal to the cognizant agency² within six months after the close of each fiscal year.*

Negotiated Indirect Cost Rate Agreements (NICRAs) are used to support indirect cost claims. These documents should be current at the time of the award (See statement on "Adequate NICRAs" further below). The final rates in the NICRAs are used for "close-out" purposes.

Regarding allocable costs, attachment A of the Circular, also states:

- *Any cost allocable to a particular award or other cost objective under these principles **may not be shifted** to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.*

In light of the above requirements, mark the appropriate clause below (A, B, or C) for the organization and fill in the blanks, as appropriate:

_____ A. A current approved cost allocation plan (CAP) or NICRA has been provided and approved - *Copy Attached*.

Note: Future NICRAs, showing provisional/final rates for each applicable fiscal year, must be submitted to the GO and GOTR for the entire grant period.

_____ B. No CAP or NICRA has been approved by the Federal Cognizant Agency.

Note: A "Temporary Billing Rate", not exceeding 90 days, may be negotiated by the Grant/Contract Officer. Future billings of indirect costs, however, should be based on approved NICRAs.

Within this 90-day period, the organization **must** submit an acceptable indirect cost proposal or CAP to their Federal cognizant agency to obtain a provisional indirect rate or an approved CAP. ***Failure of the organization to submit an indirect cost proposal or CAP within this 90 day period means that it shall not receive further (if applicable) reimbursement for indirect costs.***

¹ OMB Circular A-122 for non-profit organizations or OMB Circular A-87 for State and local organizations available at: <http://www.whitehouse.gov/omb/circulars/index.html>; Federal Acquisition Regulations, Part 31.2 for for-profit organizations available at <http://www.amet.gov/far/>.

² Federal agency providing the preponderance of direct Federal funds.

The 90 days are provided to:

1. allow the entity to bill indirect costs during this time (subject to future adjustments),
2. provide the entity enough time to prepare the initial provisional indirect cost rate proposal to be submitted to the Federal cognizant agency.

In light of the above, a temporary billing rate of (N/A or %) _____ % has been approved by _____ (grant/contracting officer at the Departmental agency; example: ETA, OASAM, etc.) for the first **90 days** of the grant/contract period. This rate is based on the fact that the organization has not established a NICRA or approved CAP.

DOL – Federal Cognizant Agency

If DOL is the Federal cognizant agency, please contact Victor M. Lopez, Chief, Division of Cost Determination (DCD) at 202-693-4106. DCD's main phone number is 202-693-4100. For more information, visit DCD's website available at: <http://www.dol.gov/oasam/programs/boc/costdeterminationguide/main.htm>.

_____ C. No indirect costs are claimed in the proposed budget.

Notes: As stated previously,

<p>- Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.</p>
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In light of the above statement, a "Certificate of Direct Costs" must be completed in support of future claims of direct costs (see attached).

Adequate NICRAs

Some federal agencies issue indirect cost rate agreements that are effective "**until amended**." These rate agreements will not be accepted by the grant officer if the last negotiated fiscal year shown in the agreement is more than one year **prior** the date of the DOL award.

For example, a provisional rate approved for FYE 12/31/03 "until amended" will not be accepted for any DOL award issued after 12/31/04. This statement is based on the federal cost principles (see footnote 1 above) that require organizations to submit a final indirect cost proposal to the Federal cognizant agency no later than six months after the entity's fiscal year ends.

Following the example above, by 6/30/04 the organization should have submitted a new indirect rate proposal to its federal cognizant agency for review and negotiation.

CERTIFICATE OF DIRECT COSTS

The following must be filled in for organizations that are not proposing any indirect costs.

This is to certify that:

1. All costs budgeted and to be claimed under this proposal supporting the period _____, through _____ are allowable in accordance with the requirements of grants/contracts to which they apply and with the Federal cost principles; i.e., (please check those applicable cost principles):

_____ OMB Circular A-87, Cost Principles for State, Local and Federally recognized Indian Tribal Governments.

_____ OMB Circular A-122, Cost Principles for Non-Profit Organizations
_____ Federal Acquisition Regulation (FAR), Subpart 31.2, Cost Principles for Commercial Organizations.

2. Claimed costs do not include any costs which are unallowable under applicable Federal cost principles. For example:

advertising, contributions and donations, bad debts, entertainment costs, fines and penalties, general government expenses, and defense of fraud proceedings;

3. The requirements standards on lobbying costs for non-profit (A-122) and commercial (FAR) organizations have been complied with and,
4. All costs included in the proposal are properly allocable to U.S. Department of Labor grants/contracts on the basis of a beneficial or casual relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable Federal cost principles.

Subject to the provisions of the Program Fraud Civil Remedies Act of 1986, (31 USC 3801 et seq.), and the Department of Labor's implementing regulations, (29 CFR Part 22), the False Claims Act (18 USC 287 and 31 USC 3729); and the False Statements Act (18 USC 1001), I declare to the best of my knowledge the foregoing is true and correct.

Grantee/Contractor: _____

Signature: _____

Name of Authorized Official: _____

Title: _____

Date: _____